

REMARKS/ARGUMENTS

Claims 1-55 are pending in this application. Claim 1 has been amended. Claim 5 has been canceled and claims 47-50 have been withdrawn as being drawn to non-elected subject matter.

The Examiner has required restriction to one of the following inventions under 35 U.S.C. 121:

- I. Claims 1-46 and 51-55, drawn to the compounds, compositions and method of use of the compounds of formula I, where $n=1$, classified in class 544, subclasses 359-391.
- II. Claims 1-4, 6-36, 42-46 and 51-55, drawn to the compounds, compositions and method of use of the compounds of formula I, where $n=2$, classified in class 540, subclass 575.
- III. Claims 47-50, drawn to the complex compositions of formula I, which includes an additional active ingredient class 514, various subclasses within based on the additional ingredients.

IV.

Applicants elect the invention of Group I for further prosecution of this application.

The Examiner has further required a tentative election of a single species within the elected group. Applicants hereby tentatively elect the compound of Example 40, i.e. (4-isopropyl-piperazin-1-yl)-(4-morpholin-4-ylmethyl-phenyl)-methanone, as the single species falling within Group I.

The above election of Group I is made with traverse.

In requiring restriction the Examiner has concluded that Groups I and II are directed to structurally dissimilar compounds such that the compounds of formula I created by the varying definition of "n" in formula I do not belong to a recognized class

of chemical compounds in the art and would thus require separate searches in the literature as well as in the U.S. Patent Classification System. The variable "n" in formula I is defined as 1 or 2. When "n" is 1 the ring formed is a six-membered or piperazine ring. When "n" is 2, a seven-membered ring is formed. Thus the compounds of Groups I and II differ from each other by a methylene (-CH₂-) group. It is submitted that, given the actual structural difference between the two groups of compounds, it would not be unduly burdensome for the two groups to be examined in the same application. The Examiner has indicated that "a piperazine ring is different from a diazepine" ring. A diazepine ring is a seven-membered ring having three double bonds. Since the seven-membered ring formed when "n" is 2 is a saturated ring, it is submitted that Groups I and II are directed to compounds which are structurally similar, except for a methylene group, and that all of the compounds of Groups I and II should be examined in the same application.

Reconsideration of the requirement for restriction is courteously requested.

In view of the requirement for restriction and the election of the invention of Group I for further prosecution, applicants have amended claim 1 by limiting the definition of "n" to 1. In addition, claim 5, drawn to compounds wherein "n" is 1 has been canceled and claims 47-50 have been withdrawn.

Respectfully submitted,

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